HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

...

Criminal Revision No. 678 of 1995

Date of decision: December 06, 2007.

Devinder Singh and another .... Petitioners

Versus

State of Punjab ... Respondent

...

CORAM: HON'BLE MR. JUSTICE HARBANS LAL

...

Present: Mr. M.S.Lobana, Advocate
with Mr.Paramjeet Batta, Advocate
for the petitioners.

Mr. A. S. Brar, DAG Punjab
for the respondent-State.

...

HARBANS LAL, J

This revision has been directed against the judgment/order of sentence dated 2.6.1993 rendered by the Court of Judicial Magistrate Ist Class, Dasuya, whereby he convicted and sentenced the accused-petitioners Devinder Singh and Kartar Singh to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- or in default thereof, the defaulter to further undergo rigorous imprisonment for a period of two months under Section 468 of I.P.C., as well as the judgment dated 28.8.1995 vide which their appeal was dismissed by the Court of learned Additional Sessions

Judge, Hoshiarpur.

The facts, in brief, of the prosecution case are that Surjit Kaur, complainant, moved an application dated 28.5.1986 before the Deputy Superintendent of Police, Dasuya, containing the allegations that she is owner-in-possession of the land delineated therein. The land as well as the crop standing on it was in her possession. The crop got damaged due to floods in the rainy season regarding which the concerned Patwari made an entry in his Register. She was to receive the compensation from the Government in lieu of damage to her such crop. The relations between her and her husband were strained for the last about 10/12 years. She is residing in her parental house in Village Talwandi Goni along with her children. Her husband Ajit Singh, accused, in connivance with Devinder Singh, Kartar Singh and Jeet Singh, Deed Writer, Dasuya, forged and fabricated a Power of Attorney dated 24.3.1986 by putting up some lady as an impostor in her place. These persons had received an amount of Rs.1,708/- as compensation on her behalf dishonestly from the Government. On the basis of her complaint, F.I.R was registered. After completion of investigation, charge-sheet was laid in the Court for trial of the accused Devinder Singh, Kartar Singh, Krishna Kumari and Ajit Singh.

The accused-petitioners Devinder Singh and Kartar Singh were charged under Section 468 of I.P.C. whereas accused Ajit Singh was charged under Section 468/465/471/420 of I.P.C and Krishna Kumari was charged under Section 419/468 of I.P.C. to which they did not plead guilty and claimed trial.

To bring home guilt against the accused, the prosecution examined PW-1, Surjit Kaur, PW-2 Ajit Singh, PW-3 HC Tarlok Singh,

PW-4 Onkar Dutt, PW-5 ASI Surinder Singh, PW-6 HC Devinder Singh, PW-7 Sohan Singh, office Kanungo, PW-8 Gurdas Ram, Tehsildar, PW-9 ASI Harpreet Singh, PW-10 Mohinder Singh, PW-11 Inder Singh, PW-12 Gurdial Singh, Naib Tehsildar, PW-13 Satwant Singh, PW-14 HC Mohan Lal, PW-15 ASI Jaswant Singh, PW-16 Sh. M.S.Chawla, Chief Judicial Magistrate, Ferozepore, PW-17 Shri Kulbir Singh, Executive Magistrate and PW-18 Shri Jaspal Singh, Judicial Magistrate Ist Class, Jalandhar, and closed its evidence.

On close of the prosecution evidence, when examined under Section 313 of Criminal Procedure Code, the accused denied all the incriminating circumstances appearing in the prosecution evidence against them. They pleaded their innocence. Without adducing any evidence, they closed their defence.

I have heard Mr. M.S.Lobana, Advocate, learned counsel for the petitioners as well as Mr. A.S.Brar, learned Deputy Advocate General, Punjab.

Mr. M.S.Lobana, learned counsel for the petitioners, realising that he is unable to persuade this Court to take a contrary view on the evidence already appreciated by both the Courts below, submitted that the petitioners have been facing agony of trial since 1986 and by taking this fact into consideration, they be released on probation. By referring to the statement of Surjit Kaur, complainant, PW1, from his own record, he has also pointed out that she has admitted in her cross-examination in categoric terms that the payment of compensation in lieu of damaged crop was received by her and that the accused are innocent and they have not committed any crime and that she had moved the complaint as she was on

bitter terms with her husband Ajit Singh.

The prayer regarding release of the petitioners on probation has been opposed by the learned State Counsel.

On giving a thoughtful consideration to the submission made by Mr. Lobana, I do not deem it expedient to release the petitioner on probation. Taking into consideration the nature of the offence and the fact that the petitioners have been undergoing the ordeals of prosecution since 1986, the sentence is reduced to already undergone. The fine imposed upon each of the petitioners is enhanced to Rs.2,000/-. In default of payment of the same, the defaulter shall undergo rigorous imprisonment for six months. The fine shall be deposited within three months from today.

Accordingly, this petition is disposed of.

(HARBANS LAL)
JUDGE

December 06, 2007

RS